

Article 34B.

Qualified Zone Academy Bonds and Qualified School Construction Bonds.

§ 115C-489.5. Qualified zone academy bonds and qualified school construction bonds; findings.

The General Assembly finds:

- (1) Section 226 of the Taxpayer Relief Act of 1997, as codified at 26 U.S.C. § 54E, provides funds for school improvements through taxable qualified zone academy bonds. Ninety-five percent (95%) or more of the proceeds of a qualified zone academy bond issue must be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency.
- (2) Partnerships between private entities and local schools are promoted through the use of qualified zone academy bonds. Issuers must certify that they have received written commitments from one or more private entities to make qualified contributions valued at ten percent (10%) of the proceeds of the issue.
- (2a) Section 1521, et seq., of the American Recovery and Reinvestment Tax Act of 2009 (ARRTA), enacted as 26 U.S.C. § 54F, provides a new source of funds for construction, rehabilitation, or repair of public school facilities or for acquisition of land for public school facilities through the issuance of qualified school construction bonds.
- (3) Eligible taxpayers may receive federal tax credits for holding the qualified zone academy bonds or qualified school construction bonds. It is intended that the qualified zone academy bonds and qualified school construction bonds be sold at a price so that the tax credits received produce the economic equivalent of interest that otherwise would have been paid on the bonds. Therefore, issuers of qualified zone academy bonds or qualified school construction bonds are obligated to repay the principal amount of the qualified zone academy bonds or qualified school construction bonds but need not make interest payments.
- (4) Applicable federal law limits the amount of qualified zone academy bonds and qualified school construction bonds that may be issued in North Carolina in a calendar year. The amount of qualified school construction bonds that may be issued in the State is divided between amounts specifically designated for identified local school districts pursuant to ARRTA ("local allocation") and amounts allocated to the entire State for use throughout the State ("statewide allocation"). (2000-69, s. 1; 2009-140, s. 1.)

§ 115C-489.6. Administration; consultation; issuance of bonds.

(a) QZAB Program. – The State Board of Education is designated the State education agency responsible for administering the qualified zone academy bond program in North Carolina for the purposes of 26 U.S.C. § 54E. The State Board of Education shall perform all activities required to implement and carry out the qualified zone activity bond program in North Carolina. Those activities include:

- (1) Defining those areas and schools that are eligible under federal law to participate in the qualified zone academy bond program in North Carolina.
- (2) Designing an application process under which proposals may be solicited from qualified zone academies.
- (3) Determining the eligibility of an applicant to be a participating qualified zone academy.
- (4) Awarding the State's allocation of total funds among selected applicants and establishing conditions upon the usage of the allocation. These conditions must include:
 - a. Ensuring that the bond proceeds be (i) used only for purposes listed in 26 U.S.C. § 54E and (ii) prioritized so as to be used first in counties determined to have greater economic distress, as determined pursuant to G.S. 143B-437.08, and for schools where seventy-five percent (75%) or more of the school's students are eligible to receive free or reduced lunch under the federal lunch program. The State Board of Education shall establish an application process and require any information necessary to enable the Board to accomplish the prioritization and efficient use of the bond proceeds in accordance with this subdivision.
 - b. Conditions designed to assure that the allocation is used in a timely manner.
- (5) Confirming that the terms of any qualified zone academy bonds issued in accordance with this program are consistent with the terms of the federal program.

(a1) **Qualified School Construction Bond Program.** – The State Board of Education is designated the State education agency responsible for administering the statewide allocation of authority to issue qualified school construction bonds under 26 U.S.C. § 54F. The State Board of Education shall perform all activities required to implement and carry out the statewide allocation for the qualified school construction bond program in North Carolina. Those activities include:

- (1) Designing an application process under which proposals may be solicited from issuers wishing to issue qualified school construction bonds pursuant to the statewide allocation.
- (2) Awarding the State's allocation of total funds among selected applicants and establishing conditions upon the usage of the allocation. These conditions may include:
 - a. Requiring that the bond proceeds be used for purposes permitted under 26 U.S.C. § 54F.
 - b. Conditions designed to assure that the allocation is used in a timely manner and that the allocations are made in accordance with the requirements of federal statutes, regulations, and rulings.
- (3) Confirming that the terms of any qualified school construction bonds issued in accordance with this program are consistent with the terms of the federal program.

- (4) Acting as the State entity designated to receive notice from any local school district that it will not utilize its local allocation so that the unused resource will become part of the statewide allocation. Local school districts receiving a local allocation are hereby directed to coordinate the use of such allocation with the State Board of Education so that any local allocation that will not be used by the local school district becomes eligible for use as part of the statewide allocation.
- (b) Assistance. – The Department of Public Instruction shall provide the State Board of Education any support it requires in carrying out this section.
- (c) Consultation. – In reviewing applications and awarding allocations, the State Board of Education shall consult with the Local Government Commission to determine whether a prospective issuer of qualified zone academy bonds or qualified school construction bonds is able to issue or incur marketable obligations.
- (d) Issuance of Bonds. – Any qualified zone academy bonds or qualified school construction bonds may be issued pursuant to the applicable provisions of and in compliance with the Local Government Bond Act, Article 4 of Chapter 159 of the General Statutes, or pursuant to the applicable provisions of and in compliance with G.S. 160A-20, to the extent authorized by G.S. 153A-158.1. As provided in G.S. 159-123(b), qualified zone academy bonds or qualified school construction bonds to be issued pursuant to the Local Government Bond Act may be sold by the Local Government Commission at private sale. (2000-69, s. 1; 2009-140, s. 1; 2017-187, s. 1.)